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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,949	07/08/2003	Kanji Imanishi	04536.015001	9028
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OSHA LIANG L.L.P. 1221 MCKINNEY STREET SUITE 2800 HOUSTON, TX 77010				
EXAMINER				
FLETCHER, JAMES A				
ART UNIT		PAPER NUMBER		
2621				
NOTIFICATION DATE		DELIVERY MODE		
05/01/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@oshaliang.com  
buta@oshaliang.com

# Office Action Summary

**Application No.**

10/614,949

**Applicant(s)**

IMANISHI, KANJI

**Examiner**

JAMES A. FLETCHER

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 11 January 2008 have been fully considered but they are not persuasive.

**In re page 3**, Applicant's Representative states: "Plourde is completely silent with respect to a specific relationship between changing a channel and setting a hard disk in a pause state as required by independent claims 1-3."

The examiner respectfully disagrees. As is understood by those of skill in the art, whenever a new stream is encountered, such as during a change of channel, it is impossible to decode that stream immediately, and therefore must wait (pause) for at least an I frame to begin decoding the stream. It therefore makes sense that a recording would not commence until a header identifying an I frame was received.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plourde, Jr. et al (7,257,308), and further in view of Parry et al (6,748,481).

**Regarding claim 1**, Plourde, Jr. et al disclose a hard disk recorder (Col 18, lines 19-21 "Storage device 373 can be an optical storage device or a magnetic storage device, among others, and is preferably a hard disk drive") having a time-shift playback

function of storing a program-being received (Col 18, lines 21-23 "Storage device 373 comprises storage for media content that can be written to for storage and later read from for retrieval for presentation"), displaying the stored program such that the program is displayed from a section of the program among stored program sections (Col 18, lines 21-23 "Storage device 373 comprises storage for media content that can be written to for storage and later read from for retrieval for presentation"), and pausing the display of the program or changing the display speed according to an operation by a user while the program is being watched (Col 30, lines 15-18 "Pause button 391 enables the user to pause a media content instance, or pause during a search for a particular media content instance"), comprising:

- a hard disk for storing said program being received (Col 18, lines 19-21 "Storage device 373 can be an optical storage device or a magnetic storage device, among others, and is preferably a hard disk drive"); and
- a control unit configured to respond to a channel-switch instruction (Col 15, lines 24-27 "The navigator 355 registers for and in some cases reserves certain user inputs related to navigational keys such as channel increment/decrement, last channel, favorite channel, etc.") by setting said hard disk in a pause state from which a storing operation can be started (Col 30, lines 15-18 "Pause button 391 enables the user to pause a media content instance, or pause during a search for a particular media content instance").

**Regarding claim 2**, Plourde, Jr. et al disclose a hard disk recorder (Col 18, lines 19-21 "Storage device 373 can be an optical storage device or a magnetic storage

device, among others, and is preferably a hard disk drive") configured to store a program being received (Col 18, lines 21-23 "Storage device 373 comprises storage for media content that can be written to for storage and later read from for retrieval for presentation") and configured to display the stored program (Col 18, lines 21-23 "Storage device 373 comprises storage for media content that can be written to for storage and later read from for retrieval for presentation"), comprising:

- a hard disk for storing said program being received (Col 18, lines 19-21 "Storage device 373 can be an optical storage device or a magnetic storage device, among others, and is preferably a hard disk drive"); and
- a control unit configured to respond to a channel-switch instruction (Col 15, lines 24-27 "The navigator 355 registers for and in some cases reserves certain user inputs related to navigational keys such as channel increment/decrement, last channel, favorite channel, etc.") by setting said hard disk in a pause state from which a storing operation can be started (Col 30, lines 15-18 "Pause button 391 enables the user to pause a media content instance, or pause during a search for a particular media content instance").

**Regarding claim 3**, Plourde, Jr. et al disclose a method of controlling a hard disk of a recorder in response to an instruction to switch a channel, comprising:

- setting the hard disk in a pause state (Col 30, lines 15-18 "Pause button 391 enables the user to pause a media content instance, or pause during a search for a particular media content instance");

- switching the channel (Col 15, lines 24-27 "The navigator 355 registers for and in some cases reserves certain user inputs related to navigational keys such as channel increment/decrement, last channel, favorite channel, etc.");

**Further regarding claims 1-3,** Plourde, Jr. et al are silent on setting a hard disk into a recording wait-state, determining the disk to be in a recording-wait state, and then setting the hard disk in a playback state.

Parry et al teach the setting of a video recording/reproducing (Col 1, lines 28-30 "recording streaming information and retrieving the stored information for selective playback" and Col 1, lines 34-36 "Common examples of streaming information include streaming video and audio delivered over a wide area network, such as the Internet") disk (Col 3, lines 52-53 "the exemplary environment described herein employs a hard disk") to a recording wait-state (), checking that disk for a recording wait-state (Col 11, lines 12-15 "algorithm 290 determines whether any of the 'Reader Blocked On' variables for reader modules 126<sub>1</sub>-126<sub>N</sub> is less than the advanced 'Head Pointer' variable 274") and setting the hard disk into a playback state (Col 11, lines 20-22 "Algorithm 290 sets any such 'Reader Unblock' event variables at step 315 to unblock the corresponding reader module").

As taught by Parry et al, setting a hard disk into a recording wait-state, determining the disk to be in a recording-wait state, and then setting the hard disk in a playback state is well known, and provides the recording device with a safeguard against overwriting data that has not yet been read.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Plourde, Jr. et al in order to include the setting of a hard disk into a recording wait-state, determining the disk to be in a recording-wait state, and then setting the hard disk in a playback state.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. FLETCHER whose telephone number is (571)272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2623

JAF  
9 April 2008